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09/775,657	02/05/2001	Evan Stephen Crandall	105136.03	9298

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S.H. Dworetsky
AT&T Corp.
P.O. Box 4110
Middletown, NJ 07748

EXAMINER	
BAUGH, APRIL L	

ART UNIT	PAPER NUMBER
2141	10

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/775,657	CRANDALL, EVAN STEPHEN	
	Examiner	Art Unit	
	April L Baugh	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-22 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 26 November 2003 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant amended claims 9 and 20 therefore claims 1-22 are now pending.

Response to Arguments

1. Applicant's arguments with respect to claims 1, 7, 9-11, 12, 20-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claim 1-6, 9-17, and 20-22 rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 6,002,832 to Yoneda in view of Kalluri et al.

Regarding claim 1, Yoneda teaches a method for transmitting a performance via a network comprising: receiving performance information (column 2, lines 11-15); composing a performance (column 2, lines 15-19); and transmitting one or more portions of the performance (column 2, lines 20-22).

Yoneda does not teach receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands. Kalluri et al. teaches receiving

one or more mixing commands via the network (Fig. 1, column 2, lines 24-41, column 5, lines 18-30 and column 6, lines 10-17); mixing stored information based on the one or more mixing commands (column 2, lines 42-61 and column 5, lines 42-61). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the apparatus and method for recording and reproducing data of Yoneda by receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands because the commands help alter and create the performance based on system or user request so the performance is presented accurately.

Referring to claim 9, Yoneda teaches a method for transmitting a performance via a network, comprising: receiving performance (column 2, lines 11-15): composing a first performance (column 2, lines 15-19); separating the first performance into performance components: and modifying one or more of the performance components to create a second performance (column 2, lines 25-44); and composing a performance (column 8, lines 10-23); and transmitting one or more portions of the second performance (column 2, lines 20-22).

Yoneda does not teach receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands. Kalluri et al. teaches receiving one or more mixing commands via the network (Fig. 1, column 2, lines 24-41, column 5, lines 18-30 and column 6, lines 10-17); mixing stored information based on the one or more mixing commands (column 2, lines 42-61 and column 5, lines 42-61). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the apparatus and method for recording and reproducing data of Yoneda by receiving one or more mixing commands via the network; mixing stored information based on the one or more

mixing commands because the commands help alter and create the performance based on system or user request so the performance is presented accurately.

Regarding claim 10, Yoneda teaches a method for transmitting a performance via a network, comprising: receiving performance information (column 2, lines 11-15); composing a performance (column 2, lines 15-19); adding a performance component to the performance prior to transmitting the one or more portions of the received performance information (column 2, lines 25-44); and transmitting one or more portions of the performance, including the modified one or more performance components (column 2, lines 20-22).

Yoneda does not teach receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands. Kalluri et al. teaches receiving one or more mixing commands via the network (Fig. 1, column 2, lines 24-41, column 5, lines 18-30 and column 6, lines 10-17); mixing stored information based on the one or more mixing commands (column 2, lines 42-61 and column 5, lines 42-61). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the apparatus and method for recording and reproducing data of Yoneda by receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands because the commands help alter and create the performance based on system or user request so the performance is presented accurately.

Referring to claim 11, Yoneda teaches a method for transmitting a performance via a network, comprising: receiving performance information (column 2, lines 11-15); composing a performance (column 2, lines 15-19); buffering the received performance information (column 8, lines 10-23); receiving a request for transmission of the performance: and transmitting the one or

more portions of performance in response to the request for transmission of the performance (column 2, lines 20-22).

Yoneda does not teach receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands. Kalluri et al. teaches receiving one or more mixing commands via the network (Fig. 1, column 2, lines 24-41, column 5, lines 18-30 and column 6, lines 10-17); mixing stored information based on the one or more mixing commands (column 2, lines 42-61 and column 5, lines 42-61). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the apparatus and method for recording and reproducing data of Yoneda by receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands because the commands help alter and create the performance based on system or user request so the performance is presented accurately.

Referring to claim 12, Yoneda teaches a performance transmission device, comprising: a receiver that receives performance information (column 2, lines 11-15): a controller that composes a performance (column 2, lines 15-19); and a transmitter that transmits one or more portions of the performance (column 2, lines 20-22).

Yoneda does not teach receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands. Kalluri et al. teaches receiving one or more mixing commands via the network (Fig. 1, column 2, lines 24-41, column 5, lines 18-30 and column 6, lines 10-17); mixing stored information based on the one or more mixing commands (column 2, lines 42-61 and column 5, lines 42-61). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify

the apparatus and method for recording and reproducing data of Yoneda by receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands because the commands help alter and create the performance based on system or user request so the performance is presented accurately.

Regarding claim 20, Yoneda teaches a performance transmission device, comprising: a receiver that receives performance information (column 2, lines 11-15); a controller that composes a first performance (column 2, lines 15-19); a modification system which, based on user input, separates the first performance into performance components and modifies one or more of the performance components to create a second performance (column 2, lines 25-44); a transmitter that transmits one or more portions of the second performance (column 2, lines 20-22).

Yoneda does not teach receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands. Kalluri et al. teaches receiving one or more mixing commands via the network (Fig. 1, column 2, lines 24-41, column 5, lines 18-30 and column 6, lines 10-17); mixing stored information based on the one or more mixing commands (column 2, lines 42-61 and column 5, lines 42-61). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the apparatus and method for recording and reproducing data of Yoneda by receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands because the commands help alter and create the performance based on system or user request so the performance is presented accurately.

Referring to claim 21, Yoneda teaches a performance transmission device, comprising: a receiver that receives performance information (column 2, lines 11-15); a controller that composes a first performance (column 2, lines 15-19); a modification system which, based on user input, adds a performance component to the performance (column 2, lines 25-44); and a transmitter that transmits one or more portions of the performance, including the performance component added by the modification system (column 2, lines 20-22).

Yoneda does not teach receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands. Kalluri et al. teaches receiving one or more mixing commands via the network (Fig. 1, column 2, lines 24-41, column 5, lines 18-30 and column 6, lines 10-17); mixing stored information based on the one or more mixing commands (column 2, lines 42-61 and column 5, lines 42-61). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the apparatus and method for recording and reproducing data of Yoneda by receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands because the commands help alter and create the performance based on system or user request so the performance is presented accurately.

Regarding claim 22, Yoneda teaches a performance transmission device, comprising: a receiver that receives performance information (column 2, lines 11-15); a controller that composes a performance (column 2, lines 15-19); and a memory that buffers the received performance information (column 8, lines 10-24); wherein the controller receives a request for transmission of the performance and causes the transmitter to transmit the one or more portions

of performance via a transmitter in response to the request for transmission of the performance (column 2, lines 20-22).

Yoneda does not teach receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands. Kalluri et al. teaches receiving one or more mixing commands via the network (Fig. 1, column 2, lines 24-41, column 5, lines 18-30 and column 6, lines 10-17); mixing stored information based on the one or more mixing commands (column 2, lines 42-61 and column 5, lines 42-61). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the apparatus and method for recording and reproducing data of Yoneda by receiving one or more mixing commands via the network; mixing stored information based on the one or more mixing commands because the commands help alter and create the performance based on system or user request so the performance is presented accurately.

Regarding claims 2 and 13, Yoneda teaches the method of claims 1 and 12, wherein the transmitting one or more portions of the performance comprises transmitting one or more portions of the performance information received via the network (column 2, lines 19-21 and 41-44).

Referring to claims 3 and 14, Yoneda teaches the method of claims 1 and 12, wherein the transmitting one or more portions of performance information comprises transmitting new information not included in the performance information received via the network (column 2, lines 19-21 and 41-44).

Regarding claims 4 and 15, Yoneda teaches the method of claims 1 and 12, wherein the composing the performance comprises: composing a first performance based on the one or more

mixing commands (column 2, lines 15-18); separating the first performance into performance components; and modifying one or more of the performance components to create a second performance (column 2, lines 25-44); and wherein the transmitting the one or more portions of the performance comprises transmitting one or more portions of the second performance (column 2, lines 19-21).

Referring to claims 5 and 16, Yoneda teaches the method of claims 4 and 15, wherein the modifying the one or more performance components comprises one or more of deleting a performance component and replacing a performance component (column 2, lines 62-65).

Regarding claims 6 and 17, Yoneda teaches the method of claims 1 and 12, further comprising adding a performance component to the performance prior to transmitting the one or more portions of the received performance information (column 2, lines 19-21 and column 17, lines 9-11).

3. Claim 7 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 6,002,832 to Yoneda in view of Agraharam et al.

Referring to claims 7 and 18, Yoneda teaches the method of claims 1 and 12, further comprising: buffering the received performance information; wherein the transmitting the one or more portions of performance is performed in response to the request for transmission of the performance (column 2, lines 19-21).

Yoneda does not teach and receiving a request. Agraharam et al. teaches and receiving a request for transmission of the performance (column 1, lines 36-43). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further

modify the apparatus and method for recording and reproducing data of Yoneda by receiving a request because this gives the user more control of the system.

4. Claims 8 and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 6,002,832 to Yoneda in view of Agraharam et al. as applied to claims 7 and 18 above, and further in view of Raz.

Regarding claims 8 and 19, Yoneda in view of Agraharam et al. teaches the method of claims 7 and 18, further comprising: wherein the buffering the received performance information is performed in response to the pause request (column 1, lines 50-52 and column 2, lines 14-16 of Yoneda).

Yoneda in view of Agraharam et al. does not teach and receiving a request. Raz teaches receiving a pause request (column 1, lines 59-62). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the apparatus and method for recording and reproducing data of Yoneda in view of Agraharam et al. by receiving a request because this gives the user more control of the system.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to April L Baugh whose telephone number is 703-305-5317. The examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal D Dharia can be reached on 703-305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALB

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER